IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 24549 of 2003

Between:

Sri Vemula Rama Rao S/o Suryanarayana
L.B. Charla, Narasapur Mandal, West Godavari District

..... PETITIONER

AND

1 The District Co-operative Officer, Eluru West Godavari District
2 the Deputy Registrar of Co-operative Societies, Bhimavaram, West Godavari District
3 Chair Person The Primary Agricultural Co-operative Credit Society Ltd., No. 5902 L.B. Cherla

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to order, direction more particularly one in the nature of Writ of Mandmaus declare the proceedings ofthe 3rd respondent dt 08-11-2003 as illegal arbitrary and without any power and jurisdiction under the provisions of A.P. Co-operative Societies Act

Counsel for the Petitioner: MR.P.R.K.AMERANDRA KUMAR

Counsel for the Respondents : GP FOR COOPERATION

The Court made the following:

ORAL ORDER:

The petitioner, who was appointed as Secretary of 3rd respondent - Primary Agricultural Cooperative Credit Society Limited questions the proceedings, dated 8.11.2003 of the 3rd respondent in placing the services of the petitioner under suspension.

It is stated in the said order that there are certain allegations levelled against the petitioner and others for misappropriation of funds of the 3rd respondent-Society and therefore, an enquiry has been conducted under Section 51 of the A.P. Cooperative Societies Act, 1964 (for short "The Act"). In the said enquiry, it has been proved that the petitioner and others are jointly responsible for such misappropriation and accordingly a show cause notice dated 20.10.2003 was issued to the petitioner asking him to submit an explanation within seven days. The petitioner submitted an explanation on 29.10.2003, but as the said explanation was not

satisfactory, the petitioner was placed under suspension.

The learned counsel for the petitioner submits that the enquiry is pending against the petitioner and the said suspension is only pending enquiry; and the Person- Incharge-Committee is not empowered to place the services of the servants of the Society under suspension and it is only the regularly elected managing committee, which is empowered to exercise the powers to suspend the employees of the 3rd respondent-Society. Section 31-A of the Act deals with the powers and functions of the committee. The committee is entitled to suspend the services under Section 31-A (15) of the said Act, which reads thus

> *"suspension of any officer or servant of the society under Section 59".*

As the enquiry was made against the petitioner under Section 51 of the Act, in which prima-facie allegations were proved, the Person-incharge-committee suspended the services of the petitioner. It is stated that the Person-incharge-committee was appointed by the Government in exercise of its power under Section 32(7)(a) of the Act. It is not in dispute that the person-incharge-committee was appointed and his term was extended from time to time and therefore, I do not distinguish the functions exercised by the regularly elected managing committee and the person-incharge- committee. Therefore, I am of the view that the 3rd respondent is also equally empowered to place the services of the petitioner under suspension.

Having regard to the facts and circumstances of the case, the writ petition is dismissed. However, as the suspension of the petitioner was made on 8.11.2003, I am of the view that the respondents shall complete the enquiry pending against the petitioner as expeditiously as possible within a period of three months from the date of receipt of a copy of this order. During the suspension period, the petitioner is

entitled for subsistence allowance payable to him as per the bye-laws and resolutions. No costs.

(V.ESWARAIAH,J.)

20th August, 2004

Bcj

To

1 The District Co-operative Officer, Eluru West Godavari District
2 The Deputy Registrar of Co-operative Societies, Bhimavaram, West Godavari District
3 The Chair Person The Primary Agricultural Co-operative Credit Society Ltd., No. 5902 L.B. Cherla

4 Two C.Cs. to the Government Pleader for Cooperation, High Court Buildings, Hyderabad (OUT)

5 Two C.D. copies

Note: Furnish C.C. in two days.

B/o

bcj